

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DERRICK ALLEN,

Plaintiff,

CIVIL ACTION NO. 09-11281

v.

DISTRICT JUDGE DAVID M. LAWSON

CORRECTIONAL MEDICAL
SERVICES,

MAGISTRATE JUDGE MARK A. RANDON

Defendant.

_____ /

**OPINION AND ORDER REGARDING PLAINTIFF'S MOTION
FOR LEAVE TO FILE AN AMENDED COMPLAINT (DKT. NO. 30)**

Plaintiff, an inmate in the custody of the Michigan Department of Corrections (“MDOC”), filed this action under 42 U.S.C. §1983, alleging that defendant violated his constitutional rights. On November 2, 2009, Plaintiff filed this motion. This motion was referred to the undersigned for hearing and determination pursuant to 28 U.S.C. §636(b)(1)(A). For the following reasons, IT IS ORDERED that Plaintiff provide this Court with a proposed amended complaint (with proposed changes clearly marked).

Opinion

Pursuant to Fed. R. Civ. Pro. 15(a)(2), a party may amend its pleading by leave of the court and the court “should freely give leave when justice so requires.” Appropriate factors to consider in determining whether to permit an amendment include: “the delay in filing, the lack of notice to the opposing party, bad faith by the moving party, repeated failure to cure deficiencies

by previous amendments, undue prejudice to the opposing party, and futility of amendment.”

Perkins v. Am. Elec. Power Fuel Supply, Inc., 246 F.3d 593, 605 (6th Cir. 2001). However, because Plaintiff failed to submit a copy of his proposed amended complaint with his motion in accordance with E.D. MICH. L R 15.1, or fully explain in his motion how he wishes to amend his complaint, the undersigned cannot make a determination on Plaintiff’s motion for leave to amend.¹ Therefore, Plaintiff is ordered to submit his proposed amended complaint within twenty-one (21) days from the date of this Order so that the Court may determine whether the proposed amendment(s) can be allowed. Plaintiff’s proposed amended complaint shall be clearly marked to delineate where changes have been proposed to be made from the original complaint.

Accordingly, IT IS ORDERED that Plaintiff shall submit a pleading titled “proposed amended complaint” within twenty-one days of the date of this order, with all proposed changes clearly delineated, or this motion will be deemed dismissed.

s/Mark A. Randon
 MARK A. RANDON
 UNITED STATES MAGISTRATE JUDGE

Dated: December 1, 2009

Certificate of Service

I hereby certify that a copy of the foregoing document was served on the parties of record on this date, December 1, 2009, by electronic and/or first class U.S. mail.

s/Melody R. Miles
 Case Manager to Magistrate Judge Mark A. Randon

¹Reference to a (proposed) amended complaint is made in Plaintiff’s motion for leave to amend but does not appear as a docket entry.